



City of Albuquerque

Legislative File Number O-06-25 (version 2)

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

Amending ROA 1994, Decriminalizing Certain Portions and Establishing Fines (Mayer, by request)

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

Amending The Following Sections Of The Revised Ordinances Of Albuquerque, 1994, Decriminalizing Certain Portions Of The City's Code Of Ordinance And Establishing Fines: New §1-1-97 Issuing Notices Of Violation, Civil Procedure And Administrative Hearings; §1-1-99 General Penalty; §2-1-11 Disturbing Meetings; §2-3-7(H) Lobbyist Registration/Compliance, Enforcement, Hearing And Appeal Process; §2-8-2-99 Risk Management Penalty; §2-9-1-6 Civil Emergency Powers Failure To Obey; §2-10-16(E) Accountability In Government Penalty; §5-8-99 Albuquerque Open Space Management Penalty; §6-1-1-99 Waste Water Penalty; §6-5-3-99 Streets And Sidewalks Penalty; §6-6-1-99 City Forester Penalty; §6-10-99 Fire Hydrant/Liquid Waste Penalty; §7-2-1-2 Transit Fares Violation; §7-3-99 Albuquerque Free Expression And Parades Penalty; §7-5-99 Sale Of Motor Vehicles Penalty; §7-7-99 Wreckers Penalty; §7-8-8 Emission Control/Enforcement, Penalties, Improper Representation; §7-10-99(C) Vehicle Nuisance Penalty; §9-1-2-99 Phenylacetic Acid And Methylamine Penalty; §9-1-3-99 Sales And Purchases Of Products Containing Ephedrine Penalty; §9-2-1-99 Animal Services Penalty; §9-3-99(A) Alarms Systems Penalty; §9-4-2-99 Police Reserve Corps Penalty; §9-4-3-99 Fire Reserve Corps Penalty; §9-4-4-99 Ems Authority Penalty; §9-5-3-99 Chlorofluorocarbons Penalty; §9-5-4-99 Woodburning Penalty; §9-5-5-99 Clean Indoor Air Regulations Penalty; §9-6-1-99 Food Sanitation Penalty; §9-6-2-99 Retailers,

Meat Markets And Wholesalers Penalty; §9-6-3-99 Raw Produce Stands Penalty; §9-6-4-99 Pure Food Penalty; §9-6-5-99 Mobile Food Units Penalty; §9-6-6-99 Food And Drink Vending Machines Penalty; §9-7-99 Insect And Rodent Control Penalty; §9-8-99 Weed And Anti-Litter Penalty; §9-9-99 Noise Control Penalty; §9-10-1-99 Refuse Collection Penalty; § 9-11-99 Tobacco Products Penalty; §9-12-99 Pollen Control Penalty; §9-13-6 Smoke Detectors Enforcement; §9-15-99 Syringe Exchange Penalty; § 9-14-99 Overnight Lodging Penalty; §9-16-99 Antifreeze Safety Penalty; §9-17-99 Angel's Law Penalty; §10-1-1-99 Parks Penalty; §10-3-5-99 Swimming Pools Enforcement Penalty; §11-1-1-45 Drug Laboratory Site Remediation Of Contamination Penalties; §11-3-99 Human Rights Penalty; §11-5-17 Body Art Enforcement; §11-11-99 Premise Liability Penalty; §13-3-2-99 Old Town Solicitations Penalty; §13-6-99 Pawnbrokers Penalty; §13-7-1-99 Motel Advertising Penalty; §13-8-99 Private Investigators Penalty; §13-10-99 Professional Fundraisers Penalty; §13-11-99 Methadone Center Penalty; §14-1-99 Uniform Administrative Code Penalty; §14-2-99 Fire Code Penalty; §14-3-5-99 Uniform Housing Code Penalty; §14-4-99 Numbering Of City Buildings Penalty; §14-5-1-99 Flood Hazard Control Penalty; §14-5-2-99 Drainage Control Penalty; §14-6-99 Railroad Cars Penalty; §14-12-99 Landmarks And Urban Conservation Penalty; §14-14-9-99 Subdivision Regulations Penalty; §14-15-99 Airport Zoning Penalty; §14-16-4-99 Zoning Code Penalty; §14-19-1-99 Public Safety Facilities Impact Fees Penalty; §14-19-2-99 Roadway Facilities Impact Fees Penalty; §14-19-3-99 Drainage Facilities Impact Fees Penalty; §14-19-4-99 Park And Recreation Facilities Impact Fees Penalty.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. Chapter 1, Article 1, R.O.A. 1994 is amended to add the following new section to read:

“§ 1-1-97 [NEW MATERIAL] ISSUING NOTICES OF VIOLATION; CIVIL PROCEDURE AND ADMINISTRATIVE HEARINGS

(A) Any party who has received a notice of an alleged civil violation of any part of this code of ordinances is entitled to a full and fair hearing before an administrative hearing officer. Unless the specific ordinance at issue or any other regulation or law

contains a procedure for administrative hearings on the subject at issue, the procedures in this part of the code of ordinances shall control.

(B) *Notice of Violation.* **A notice of violation shall include in writing a short summary of the facts underlying the alleged violation, the section of this code of ordinances which has allegedly been violated, a statement of the amount of the fine, the due date of the fine, a notice of the right to request a hearing and the consequences of default. The effective date of the notice of violation is the date the notice of violation is served, posted, mailed or first published. The effective date shall be written on the notice of violation. Any person with delegated authority from the Mayor may issue a notice of violation. The notice of violation may be hand delivered, served by mail, posted or otherwise served by any method reasonably calculated to apprise the parties of the action and generally contemplated by Rule 1-004 of the Rules of Civil Procedure. The alleged violator has 30 days from the effective date to pay the fine or request a hearing. If there is no response after 30 days, the alleged violator is in default and the City can use any remedies available at law or in equity to collect the debt.**

(C) *Request for Hearing.* **To request a hearing, the alleged violator must file a request for hearing in the office of the City Clerk on a form provided by the clerk. A filing fee is not required unless otherwise specifically required in these ordinances. If a hearing fee is required by any other part of this code of ordinances, the hearing officer may waive fees for any indigent person upon a showing of indigence satisfactory to the hearing officer or the Mayor.**

(D) *Notice of Hearing.* **The hearing officer shall provide a notice of hearing to the parties which notice includes (1) a statement of the time, place and nature of the hearing, (2) a statement of the legal authority under which the hearing is to be held and (3) a short and plain statement of the matters at issue. In fixing the times and places for hearings, due regard shall be given to the convenience of the parties or their representatives. The hearing should be held as soon as reasonably possible depending on the availability of the hearing officer, the parties and the counsel or representative of the parties if applicable.**

The hearing officer may grant continuances if requested or agreed upon by any party or parties provided that the hearing officer is satisfied that a request for a continuance is not interposed for delay.

(E) *Pre-Hearing Procedures.* The hearing officer may make an informal disposition of any adjudicatory proceeding by stipulation, agreed settlement, consent order or default. The hearing officer may limit the issues to be heard or vary the procedures prescribed herein. The hearing officer shall allow any person showing that he will be substantially and specifically affected by the proceeding to intervene as a party in the whole or any portion of the proceeding, and may allow any other interested person to participate by presentation of argument orally or in writing. The hearing officer may, if requested by any party, require any other party to name the intended witnesses and provide a summary of their testimony. The hearing officer may, upon the request of any party, require any other party to identify and produce for examination or copying any exhibits the party anticipates using. Such demanded information shall be made available at least ten days prior to the hearing. Other discovery or pretrial conferences and procedures available in the district courts may be utilized upon demand by any party if the hearing officer determines there is good cause and the discovery request is practical, not unduly burdensome and made in good faith.

(F) *Hearing Procedures.* Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Unless another ordinance calls for a different evidentiary standard, the City must prove the case by a preponderance of the evidence. The rules of evidence are relaxed for administrative hearings. Evidence may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. No greater exclusionary effect shall be given any rule or privilege than would obtain in an action in the district court. Subject to these requirements, when a hearing will be expedited and the

interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. City ordinances are self authenticating and copies may be admitted into evidence.

(1) Every party may call and examine witnesses, introduce exhibits, cross-examine witnesses who testify and submit rebuttal evidence. The witnesses shall be sworn. The hearing officer may exclude any person from the hearing sua sponte or by request of the any party. The hearing officer may take judicial notice of generally incontrovertible matters and other facts within the specialized knowledge of the hearing officer. The hearing officer may accept expert opinion in writing or by testimony. The experience, technical competence and specialized knowledge of city officials and employees may be utilized in the evaluation of the evidence.

(2) If a person who has requested a hearing does not appear and no continuance has been granted, the hearing officer may hear the evidence of witnesses who appear, and the hearing officer may proceed to consider the matter and dispose of it on the basis of the evidence before the hearing officer. Where because of accident, sickness or other good cause, a person fails to appear for a hearing which he has requested, the person may within a reasonable time apply to the hearing officer who may, upon finding the cause sufficient, immediately fix a time and place for hearing and give the person notice as required hereunder.

(3) Where relief or procedure is not otherwise provided for, rules of practice and procedure applicable to civil actions in the district court may be utilized by the hearing officer or the parties at any stage of any proceeding.

(4) Before rendering a decision, the hearing officer may request or accept proposed findings of fact and law, together with supporting reasons therefore, including citations to the record and of law. The hearing officer may enter an oral decision at the close of the hearing which may be subsequently reduced to writing by the hearing officer or by a party at the request of the hearing officer within 30 days from the close of the hearing. Alternatively, the

hearing officer may enter a written decision 30 days from the close of the hearing which decision shall be filed with the City Clerk and provided to the parties. The decision is subject to review by the district courts under the Rules of Civil Procedure.

(G) *Record.* The record in adjudicatory proceedings shall include (1) all pleadings, motions and intermediate rulings, (2) evidence received or considered including a recording of the testimony, (3) a statement of matters officially noticed, (4) questions and offers of proof, (5) objections and rulings thereon, (6) proposed findings and conclusions, if any, and (7) any decision, opinion or report relied upon by the hearing officer.”

(H) *Remedies.* This section does not limit the remedies available to municipalities under New Mexico law. With regard to this entire code of ordinances, if a civil remedy does not appear adequate to protect the public or if a civil remedy is unavailable for any reason, the City may avail itself of all other remedies available at law including, without limitation, equitable relief, nuisance abatement and petty misdemeanor prosecution under ROA § 1-1-98.

SECTION 2. Section 1-1-99 R.O.A. 1994 is amended to read:

“§ 1-1-99 [~~GENERAL PENALTY~~] [+VIOLATIONS+].

Any person who violates any [+criminal+] provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$500 or by imprisonment not exceeding 90 days or both unless a different specific penalty is provided. Each separate violation shall constitute a separate offense and, upon conviction, each day of violation shall constitute a separate offense. [+Any person who violates a civil provision of this code shall be liable for payment of a fine. Unless a specific ordinance provides otherwise, the penalty for the first offense is \$100, \$200 for the second offense and \$500 for every subsequent offense. Any violation that pertains to real property shall become a lien upon the property if unpaid. Any provision of this code that does not specify whether it is civil or criminal is criminal. The City may avail itself of all equitable relief stated in an ordinance or otherwise available at

law. Any person who, without a permit, engages in an activity for which a permit is required is liable for a civil fine unless an ordinance provides another remedy.
+]"

SECTION 3. Section 2-1-11 R.O.A. 1994 is amended to read:

“§ 2-1-11 DISTURBING MEETINGS.

It shall be unlawful to disturb any meeting of the City Council or of any committee thereof, or to behave in a disorderly manner at such meeting. [+A violation of this section is a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H).+]”

SECTION 4. Section 2-3-7(H) R.O.A. 1994 is amended to read:

“(H) Any person who files a statement required by this Ordinance, including but not limited to registration and disclosure statements, after the deadline imposed by this Ordinance or any person who files a false or incomplete statement shall be liable for [+a civil violation under this Ordinance+] and shall pay the City at or from the time initially required for the filing, fifty dollars (\$50.00) per day for each regular working day after the time required for the filing of the statement until the complete report is filed up to a maximum of five hundred dollars (\$500.00). Any person who knowingly and willfully violates any of the provisions of this Ordinance shall [~~be punished by a~~] [+pay a civil+] fine of up to five hundred dollars (\$500.00) and may have his lobbyist or lobbyist organization registration revoked or his lobbying or lobbying campaigning activities enjoined for up to three (3) years.”

SECTION 5. Section 2-8-2-99 R.O.A. 1994 is amended to read:

“§ 2-8-2-99 PENALTY.

Any person who reveals records protected pursuant to § 2-8-2-11(A) to another person in violation of this section is guilty of [~~misdemeanor and shall, upon conviction, be fined not more than \$500-~~] [+a civil violation+]. The city shall not employ any person [~~so convicted-~~] [+deemed to violate § 2-8-2-11(A)+] for a period of five years [~~after the date of conviction-~~].”

SECTION 6. Section 2-9-1-6 R.O.A. 1994 is amended to read:

“§ 2-9-1-6 FAILURE TO OBEY.

Every person remaining present at the place of any riot or unlawful assembly after they have been ordered to disperse by the police or any other lawful authority, except those public officers and persons assisting them in attempting to disperse the same, shall be deemed guilty of a ~~[of §§ 2-9-1-1 et seq.]~~ [+civil violation and subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 7. Section 2-10-16(E) R.O.A. 1994 is amended to read:

“(E) Each and every violation of this article is a ~~[-criminal violation subject to the provisions of § 1-1-99 ROA 1994-]~~ [+separate violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97 (H)+].”

SECTION 8. Section 5-8-99 R.O.A. 1994 is amended to read:

“§ 5-8-99 PENALTY.

~~[-(A)-]~~ Any person who violates any of the provisions of this article ~~[shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to the penalty provisions set forth in § 1-1-99-]~~ [+commits a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] of this code of ordinances. Each violation shall be considered a separate offense.

~~[-(B) Upon conviction of a violation of § 5-8-6(B), (1) and (3), (F) or (G), the weapon or firearm shall be forfeited to the city by order of the Court.-]~~ [+Upon a violation of § 5-8-6 involving a weapon or firearm, the weapon or firearm shall be subject to forfeiture to the City by order of Hearing Officer.+]

SECTION 9. Section 6-1-1-99 R.O.A. 1994 is amended to read:

“§ 6-1-1-99 PENALTY.

(A) The schedule for assessment of fees and application of flow restriction for a violation of §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7 shall be as follows:

- (1) First observed violation - \$20;
- (2) Second observed violation - \$50;

- (3) Third observed violation - \$100;
- (4) Fourth observed violation - \$300;
- (5) Fifth observed violation - \$400;
- (6) Sixth observed violation - \$600;
- (7) Seventh observed violation - \$800;
- (8) Eighth observed violation - \$1,000;
- (9) Ninth or more observed violation: Either a \$1,000 fee per

violation plus application of a flow restriction device at meter or a \$2,000 fee per each violation. The flow restriction device cannot be removed by the responsible party and will not be removed by the utility until the responsible party adequately demonstrates to the city that the violation has ceased or until a variance is granted.

(B) For the purpose of assessing fees or flow restriction for violations of §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7, any previous violation shall not be considered if:

- (1) A period of five years has elapsed since the violation was incurred; or
- (2) The property is acquired by a new owner; or
- (3) The violation occurred prior to July 1, 1998.

(C) Any responsible party who violates any provision of §§ 6-1-1-8 through 6-1-1-10 [~~shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed \$500 and/or imprisonment for a period not to exceed 90 days-~~] [+commits a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. [~~Application of fines for violations of the regulations in §§ 6-1-1-8 through 6-1-1-10 will comply with the Zoning Code as currently adopted or subsequently amended. (See §§ 14-16-4-1 through 14-16-4-12, and 14-16-4-99.)-~~]

(D) Any person who violates the provisions of this article for which no other penalty is set forth [~~, shall be subject to the general penalty provision of this code set forth in § 1-1-99-~~] [+commits a civil violation subject to the civil fine

provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H) +].”

SECTION 10. Section 6-5-3-99 R.O.A. 1994 is amended to read:

“§ 6-5-3-99 PENALTY.

Any person, firm, association or corporation who shall erect, locate, or install, or who shall cause to be erected, located or installed any building, structure, excavation, well or sub-surface structure as herein defined contrary to the provisions of §§ 6-5-3-1 et seq., ~~[-shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not less than \$50 and not more than \$200-]~~ [+commits a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each such person, firm, association or corporation shall be deemed ~~[-guilty of-]~~ [+liable for+] a separate offense for every day during any portion of which any violation of any provision of §§ 6-5-3-1 et seq. is permitted or continued by such person, firm, association or corporation, and shall be ~~[-punishable-]~~ [+liable+] therefor as provided herein; provided that any building, structure, well, excavation or subsurface structure, as defined herein, existing on the effective date of §§ 6-5-3-1 et seq. shall not be deemed to be a violation of said sections.”

SECTION 11. Section 6-6-1-99 R.O.A. 1994 is amended to read:

“§ 6-6-1-99 PENALTY.

Any violation of §§ 6-6-1-1 et seq. ~~[-shall be punished in accordance with Section 1-1-99, ROA 1994-]~~ [+is a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 12. Section 6-10-99 R.O.A. 1994 is amended to read:

“§ 6-10-99 PENALTY.

~~[-Any person convicted of a violation of this article shall be subject to a fine not exceeding \$500 or by imprisonment not exceeding 90 days or both.-]~~ [+Any person who violates this article is subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H).+] Each separate violation shall constitute a separate offense and ~~[-, upon conviction,-]~~ each day of

violation shall constitute a separate offense.”

SECTION 13. Section 7-2-1-2 R.O.A. 1994 is amended to read:

“§ 7-2-1-2 VIOLATION.

It shall be a ~~[-violation of § 7-2-1-1-]~~ [+civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] for any person using the transit system to fail to pay the applicable fare.”

SECTION 14. Section 7-3-99 R.O.A. 1994 is amended to read:

“§ 7-3-99 PENALTY.

Any person violating any provision of this article ~~[-shall be subject to the penalties provided in § 1-1-99 ROA 1994-]~~ [+commits a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 15. Section 7-5-99 R.O.A. 1994 is amended to read:

“§ 7-5-99 PENALTY.

Any person who violates any provision of this article ~~[-shall have committed a petty misdemeanor and be subject to § 8-1-3-99(B)-]~~ [+commits a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 16. Section 7-7-99 R.O.A. 1994 is amended to read:

“§ 7-7-99 PENALTY.

Any one who violates the provisions of this article ~~[-shall be subject to the general penalty provisions set forth in § 8-1-3-99(A)-]~~ [+commits a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 17. Section 7-8-8 R.O.A. 1994 is amended to read:

“§ 7-8-8 ENFORCEMENT, PENALTIES, IMPROPER REPRESENTATION.

(A) As provided in Section 66-3-7 NMSA 1978, the New Mexico Motor Vehicle Division may refuse registration or issuance of a certificate of title or any transfer or registration upon the ground that the vehicle has not satisfactorily met the requirements of the Board's exhaust emissions inspection regulations

as applicable and adopted pursuant to this article. This shall be the primary method of enforcing the emissions requirements of this article.

(B) Nothing in this article shall be construed to prevent the Board or the Director from utilizing any other enforcement mechanisms granted to them pursuant to § 9-5-1-11 of the Joint Air Quality Control Board regulations in this code of ordinances or the New Mexico Air Quality Control Act, Sections 74-2-1 through 74-2-17 NMSA 1978.

(C) Law enforcement officers shall check for satisfactory re-registration whenever they have occasion to stop or inspect a motor vehicle for any nonemergency law-enforcement purpose. In addition, surveys specifically for enforcing this article may be undertaken. This subsection shall not limit any other lawful procedure available to law enforcement officers.

(D) Any person representing any place to be an authorized inspection station which is not currently approved as such by the Director shall be subject to ~~[-the penalty provisions set forth in § 1-1-99-]~~ [+the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].

(E) Any person who knowingly and falsely advertises that he employs a certified emissions inspector or any individual who falsely holds himself out as a certified emissions inspector ~~[-shall be subject to the penalty provisions set forth in § 1-1-99-]~~ [+commits a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].

(F) It shall be a ~~[-misdemeanor-]~~ [+civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] for any person subject to this article to fail to have a vehicle inspection test performed pursuant to the provisions of this article and regulations adopted thereto.”

SECTION 18. Section 7-10-99(C) R.O.A. 1994 is amended to read:

“(C) *Third or Subsequent Offense.* A third or subsequent offense is a third or greater violation of any one of the above listed specific violations in any four year period of time. For a third or subsequent offense, the violator ~~[-shall be-~~

~~subject to the penalty provisions of § 1-1-99 R.O.A. 1994.]~~ [+is liable for additional \$500 fines and subject to alternative remedies stated in § 1-1-97(H)+]. In addition, the vehicle of the violator shall be subject to forfeiture provisions of § 7-6-1 et seq., ROA 1994.”

SECTION 19. Section 9-1-2-99 R.O.A. 1994 is amended to read:

“§ 9-1-2-99 PENALTY.

Any person convicted of a violation of the provisions of §§ 9-1-2-1 et seq. ~~[- shall be guilty of a misdemeanor and subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances-]~~ [+is liable for a civil violation subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 20. Section 9-1-3-99 R.O.A. 1994 is amended to read:

“§ 9-1-3-99 PENALTY.

Any person who violates any provision of §§ 9-1-3-1 et seq. is subject to ~~[-a fine of \$250 for the first offense and a fine of \$500 for the second and each subsequent offense-]~~ [+fines for a civil violation under § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each incident in violation of §§ 9-1-3-1 et seq. shall constitute a separate offense.”

SECTION 21. Section 9-2-1-99 R.O.A. 1994 is amended to read:

“§ 9-2-1-99 PENALTY.

~~[Any person who violates a provision of this article shall be deemed guilty of a petty misdemeanor, and upon conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-99. Each day this article is violated shall be considered a separate offense.-]~~ [+Any person who violates the Albuquerque Animal Control Ordinance, the Humane and Ethical Animal Rules and Treatment Ordinance or any other ordinance of the City of Albuquerque pertaining to animals is subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+.]”

SECTION 22. Section 9-3-99(A) R.O.A. 1994 is amended to read:

“§ 9-3-99 PENALTY.

(A) Any person or entity charged with conducting any activity addressed by this Ordinance without a permit [~~shall be guilty of a petty misdemeanor and shall be subject to the provisions set forth in § 1-1-99 R.O.A. 1994~~] [is subject to the civil fine provisions set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each and every day such violation is committed shall constitute a separate offense.”

SECTION 23. Section 9-4-2-99 R.O.A. 1994 is amended to read:

“§ 9-4-2-99 PENALTY.

Any member of the corps who violates any provision of § 9-4-2-98 shall be subject to [~~the penalty provisions set forth in § 1-1-99 of this code of ordinances~~] [finest for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].

SECTION 24. Section 9-4-3-99 R.O.A. 1994 is amended to read:

“§ 9-4-3-99 PENALTY.

Any person who violates any of the provisions of §§ 9-4-3-1 et seq. shall be [~~deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances~~] [subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day that a violation occurs shall be considered a separate offense.”

SECTION 25. Section 9-4-4-99 R.O.A. 1994 is amended to read:

“§ 9-4-4-99 PENALTY.

Any person who violates § 9-4-4-5(C)(5) shall be [~~deemed guilty of a petty misdemeanor and, upon conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances. Every violation shall be a separate misdemeanor.~~] [subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.”

SECTION 26. Section 9-5-3-99 R.O.A. 1994 is amended to read:

“§ 9-5-3-99 PENALTY.

Any person who violates any provision of §§ 9-5-3-1 et seq. shall be [~~deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances-~~] [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each violation and each day's violation shall constitute a separate violation and shall be punishable as such.”

SECTION 27. Section 9-5-4-99 R.O.A. 1994 is amended to read:

“§ 9-5-4-99 PENALTY.

Any person who violates any of the provisions of §§ 9-5-4-1 et seq. shall be [~~deemed guilty of a petty misdemeanor, and upon conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances-~~] [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 28. Section 9-5-5-99 R.O.A. 1994 is amended to read:

“§ 9-5-5-99 PENALTY.

Any person who violates any provision of §§ 9-5-5-1 et seq. shall be [~~guilty of a petty misdemeanor punishable by-~~] [+subject to fines for a civil violation as follows+]:

(1) A fine of one hundred dollars (\$100) for the first violation of this ordinance within any consecutive twelve month period.

(2) A fine of two hundred dollars (\$200) for a second violation of this ordinance within any consecutive twelve month period.

(3) A fine of five hundred dollars (\$500) for the third and each subsequent violation of this ordinance within any consecutive twelve month period.”

SECTION 29. Section 9-6-1-99 R.O.A. 1994 is amended to read:

“§ 9-6-1-99 PENALTY.

Every person convicted of a violation of any provision of §§ 9-6-1-1 et seq. shall be [~~guilty of a misdemeanor and shall be subject to the penalty provisions-~~

~~set forth in § 1-1-99 of this code of ordinances. Every violation of §§ 9-6-1-1 et seq. shall be a misdemeanor.]~~ [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.”

SECTION 30. Section 9-6-2-99 R.O.A. 1994 is amended to read:

“§ 9-6-2-99 PENALTY.

Every person convicted of a violation of any provision of §§ 9-6-2-1 et seq. shall be ~~[-guilty of a misdemeanor and shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances. Every violation of §§ 9-6-2-1 et seq. shall be a misdemeanor.-]~~ [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.”

SECTION 31. Section 9-6-3-99 R.O.A. 1994 is amended to read:

“§ 9-6-3-99 PENALTY.

Any person who violates any provision of §§ 9-6-3-1 et seq. shall be subject to ~~[-the general penalty provisions of this code set forth in § 1-1-99-]~~ [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 32. Section 9-6-4-99 R.O.A. 1994 is amended to read:

“§ 9-6-4-99 PENALTY.

(A) Any person who violates any of the provisions of § 9-6-4-4 shall be ~~[-guilty of a misdemeanor and shall upon conviction thereof be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances-]~~ [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].

(B) Any person who violates any provision of §§ 9-6-4-1 et seq., exclusive of § 9-6-4-4, shall be subject to ~~[-the general penalty set forth in § 1-1-99-]~~ [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-

97(H)+].”

SECTION 33. Section 9-6-5-99 R.O.A. 1994 is amended to read:

“§ 9-6-5-99 PENALTY.

Any person who violates § 9-6-5-3 is subject to ~~[-the general penalty provisions of this code set forth in § 1-1-99-]~~ [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 34. Section 9-6-6-99 R.O.A. 1994 is amended to read:

“§ 9-6-6-99 PENALTY.

Any person who violates any provision of §§ 9-6-6-1 et seq. shall be subject to ~~[-the penalty provisions set forth in § 1-1-99 of this code of ordinances-]~~ [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 35. Section 9-7-99 R.O.A. 1994 is amended to read:

“§ 9-7-99 PENALTY.

Any person who violates any provision of this article shall be subject to ~~[-the general penalty provisions of this code set forth in § 1-1-99-]~~ [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 36. Section 9-8-99 R.O.A. 1994 is amended to read:

“§ 9-8-99 PENALTY.

~~[-Any person who violates any of the provisions of this article shall be deemed guilty of a petty misdemeanor and, upon conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances to include a minimum fine of \$150. Any person deemed guilty of a subsequent violation shall be subject to a minimum fine of \$300 and then \$500 for each violation thereafter. Community service may be imposed in lieu of or in addition to any such fine. Every violation shall be a separate misdemeanor.-]~~

[+Any person who fails to comply with the provision of this article shall be subject to a civil fine in the amount of \$150/day. In the event City undertakes the removal of any weeds or litter, then the City's costs for removal and disposal of weeds and litter, whose presence constitute the violation, shall be assessed

against such person. If such person fails to pay any civil fines or charges assessed against him and/or the City's costs for removal and disposal of weeds and litter, after notice of those charges, then any civil penalties or cleanup costs due to the City may be reduced to a lien on the real property affected, regardless of actual ownership of such property.+]"

SECTION 37. Section 9-9-99 R.O.A. 1994 is amended to read:

"§ 9-9-99 PENALTY.

Any person who violates any provision of this article shall be subject to the following [~~penalties~~] [+civil fines+] for offenses during any 36-consecutive-month period:

- (A) fine of \$100 for the first offense;
- (B) fine of \$250 for the second offense;
- (C) fine of \$500 for the third and subsequent offenses.

Each calendar day during which the violation occurs shall constitute a separate and distinct offense."

SECTION 38. Section 9-10-1-99 R.O.A. 1994 is amended to read:

"§ 9-10-1-99 PENALTY.

Any person [~~convicted of a violation of the provisions of §§ 9-10-1-1 et seq. or any regulation promulgated hereunder shall be guilty of a misdemeanor and shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances~~] [+who violates this article is subject to civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]."

SECTION 39. Section 9-11-99 R.O.A. 1994 is amended to read:

"§ 9-11-99 PENALTY.

(A) *Nature and Size of Penalties.* Violation of this article is a [~~petty misdemeanor~~] [+civil violation+] subject to the following [~~penalties~~] [+fines+]:

(1) Any employer that violates a requirement of § 9-11-5 shall be subject to a fine of not more than \$100.

(2) Any employer, employee or agent that violates a prohibition of § 9-11-6 above shall each be subject to:

- (a) A fine of \$100 for the first violation within a two-year period;
- (b) A fine of \$300 for the second violation within a two-year period;
- (c) A fine of \$500 for the third violation within a two-year period; and
- (d) A fine of \$500 for any additional violation within a two-year period.

(B) *Records of Fines Imposed.* The Mayor shall keep records of any fines imposed under division (A)(2) of this section.”

SECTION 40. Section 9-12-99 R.O.A. 1994 is amended to read:

“§ 9-12-99 PENALTY.

Any person who violates any of the provisions of this article shall be [~~deemed guilty of a petty misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500-~~] [+subject to fines for a civil infraction+].”

SECTION 41. Section 9-13-6 R.O.A. 1994 is amended to read:

“§ 9-13-6 ENFORCEMENT.

The Fire Chief, the Fire Chief’s authorized representatives, and the Division of Housing Code Enforcement shall have the authority to enforce this article, which shall include the authority to [~~-citations-~~] [+issue notices of violation for civil violations set forth in § 1-1-99 or pursue the alternative remedies stated in § 1-1-97(H)+].”

SECTION 42. Section 9-14-99 R.O.A. 1994 is amended to read:

“§ 9-14-99 PENALTY.

Each and every violation of this Ordinance is a [~~criminal violation subject to the provisions of § 1-1-99 ROA 1994-~~] [+civil violation subject to the fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Violations found in separate rooms or multiple violations in the same room are separate violations under § 1-1-99 ROA 1994.”

SECTION 43. Section 9-15-99 R.O.A. 1994 is amended to read:

“§ 9-15-99 PENALTY.

Any person convicted of violating any of the provisions of this article or failing or neglecting to comply with any orders issued pursuant to any section thereof shall be ~~[-deemed guilty of a misdemeanor and such person shall be guilty of a separate offense-]~~ [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] for each and every day or portion thereof during which any violation is continued or permitted. ~~[-Upon conviction, each such violation shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances.-]~~”

SECTION 44. Section 9-16-99 R.O.A. 1994 is amended to read:

“9-16-99 PENALTY.

Each sale of antifreeze in violation of this Antifreeze Safety Ordinance is a separate ~~[-violation of § 1-1-99 ROA 1994-]~~ [+civil violation subject to the fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 45. Section 9-17-99 R.O.A. 1994 is amended to read:

“§ 9-17-99 PENALTY.

Any violation of this article subjects the violator to ~~[-the penalty provided by § 1-1-99 ROA 1994-]~~ [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] and each day of a continuing violation is a separate ~~[-petty misdemeanor-]~~ offense. ~~[-Any violation of this article is not a lesser included offense for a violation of a similar provision of any other law.-]~~”

SECTION 46. Section 10-1-1-99 R.O.A. 1994 is amended to read:

“§ 10-1-1-99 PENALTY.

Any person who violates any provision of §§ 10-1-1-1 et seq. shall be subject to ~~[-the general penalty provisions of this code set forth in § 1-1-99-]~~ [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 47. Section 10-3-5-99 R.O.A. 1994 is amended to read:

“§ 10-3-5-99 PENALTY.

Any person who violates any of the provisions of this article shall be [~~deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances~~] [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day this article is violated shall be considered a separate offense.”

SECTION 48. Section 11-1-1-45 R.O.A. 1994 is amended to read:

“§ 11-1-1-48 PENALTIES.

(A) If an owner fails to provide any notice required by this subpart, the owner shall be subject to [~~imprisonment up to 90 days and/or a fine of up to \$500-~~] [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] and is liable for any harm resulting from the owner’s failure to comply with the requirements of this subpart.

(B) A person who knowingly violates a notice of removal that is issued by a law enforcement officer under this subpart is subject to [~~imprisonment up to 90 days and/or a fine of up to \$500-~~] [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] for each day such person fails to comply with the notice of removal.

(C) All other violations of this subpart shall be subject to the [~~penalty provisions of § 1-1-99 R.O.A. 1994-~~] [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 49. Section 11-3-99 R.O.A. 1994 is amended to read:

“11-3-99 PENALTY.

Any person who violates any provision of this article is subject to [~~the general penalty provision of this code set forth in § 1-1-99-~~] [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 50. Section 11-5-17 R.O.A. 1994 is amended to read:

“§ 11-5-17 ENFORCEMENT.

(A) Operation of any body art establishment or performance of any body art without a permit is a misdemeanor and shall be subject to [~~the penalty-~~

~~provisions in § 1-1-99 ROA 1994.]~~ [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day of operation without a permit and each separate body art procedure shall be a separate offense.

(B) The Department may inspect body art establishments without a warrant and as often as necessary throughout the year to ensure compliance with this article.

(C) It is unlawful for any person to interfere with the Department in the performance of its duties and any such violation is subject to the ~~[-penalty-]~~ [+fine+] provisions in § 1-1-99 ROA 1994.

(D) A copy of the inspection report must be furnished to the permit holder. The Department shall retain the original inspection report.

(E) If a permittee violates this article, the Department may, in its discretion, advise the permittee, in writing, of the Department's finding of a violation and instruct the permittee to undertake specific remedial steps to correct such violation(s) within a reasonable period of time not to exceed 30 days.

(F) If the Department reasonably suspects that a communicable disease is being transmitted or may be transmitted by an operator or body art establishment, the Department may do any or all of the following:

(1) Issue an order excluding any or all operators from the permitted body art establishment until the Department determines there is no further risk to public health.

(2) Issue an order immediately suspending the body art establishment permit until the Department determines there is no further risk to the public health.”

SECTION 51. Section 11-11-99 R.O.A. 1994 is amended to read:

“§ 11-11-99 PENALTY.

Any person who violates any provision of this article shall ~~[-, upon conviction, be subject to a fine of \$300 for the first offense, \$500 for the second offense and up to ten consecutive days of imprisonment for the third offense-]~~ [+be subject to fines for a civil violation set forth in § 1-1-99 or the alternative

remedies stated in § 1-1-97(H)+].”

SECTION 52. Section 13-3-2-99 R.O.A. 1994 is amended to read:

“§ 13-3-2-99 PENALTY.

Every person [~~convicted of a violation of-~~] [+who violates+] any provision of §§ 13-3-2-1 et seq. shall be [~~guilty of a misdemeanor and shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances-~~] [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Every day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.”

SECTION 53. Section 13-6-99 R.O.A. 1994 is amended to read:

“§ 13-6-99 PENALTY.

Any permit holder who is found guilty of a violation of any provision of this article shall be subject to [~~the penalty provisions set forth in § 1-1-99 of this code of ordinances-~~] [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Any permit holder who violates any provision of this article shall be subject to having said permit revoked or suspended by the Mayor. [~~Revocation or suspension of such permit will not bar prosecution of the permit holder under the penal provisions of this article. Criminal prosecution will not bar proceedings to revoke or suspend the holder's permit.-~~]

SECTION 54. Section 13-7-1-99 R.O.A. 1994 is amended to read:

“§ 13-7-1-99 PENALTY.

Any person who violates any provision of §§ 13-7-1-1 et seq. shall be subject to [~~the general penalty provisions of this code set forth in § 1-1-99-~~] [+fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 55. Section 13-8-99 R.O.A. 1994 is amended to read:

“§ 13-8-99 PENALTY.

Any person who violates any provision of this article shall be subject to [~~the general penalty provisions of this code set forth in § 1-1-99-~~] [+fines for a civil

violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 56. Section 13-10-99 R.O.A. 1994 is amended to read:

“13-10-99 PENALTY.

Any person violating any of the provisions of this article or filing, or causing to be filed, in a license application any false or fraudulent misstatements, shall be ~~[deemed guilty of a misdemeanor, and shall be subject to the general penalty provision of this code set forth in § 1-1-99]~~ [+subject to fines for a civil violation set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. This provision is not exclusive and does not prevent the city from seeking [+a+] civil injunction or other legal remedies as appropriate.”

SECTION 57. Section 13-11-99 R.O.A. 1994 is amended to read:

“§ 13-11-99 PENALTY.

Any person convicted of violating any of the provisions of this article or failing or neglecting to comply with any orders issued pursuant to any section thereof shall be deemed ~~[guilty of a misdemeanor and such person shall be guilty of a separate offense for each and every day or portion thereof during which any violation is continued or permitted. Upon conviction, each such violation shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances.]~~ [+liable for a civil violation and subject to the fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H).+]”

SECTION 58. Section 14-1-99 R.O.A. 1994 is amended to read:

“§ 14-1-99 PENALTY.

Any person violating any of the provisions of this article or failing or neglecting to comply with any orders issued pursuant to any section thereof shall be ~~[deemed guilty of a misdemeanor and such person shall be guilty of a separate offense]~~ [+subject to civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] for each and every day or portion thereof during which any such violation is continued or permitted. ~~[-Upon conviction of any such violation, such person shall be punished by fine of not more than \$500 or by imprisonment for not more than 90 days, or by both such fine and-~~

~~imprisonment.-]~~”

SECTION 59. Section 14-2-99 R.O.A. 1994 is amended to read:

“§ 14-2-99 PENALTY.

Any person [~~convicted of violating-~~] [+who violates+] any of the provisions of this code or [~~failing or neglecting-~~] [+fails or neglects+] to comply with any orders issued pursuant to any section thereof shall be [~~deemed guilty of a misdemeanor and such person shall be guilty of a separate offense-~~] [+subject to civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)] for each and every day or portion thereof during which any such violation is continued or permitted. [~~Upon conviction, each such violation shall be punishable by a fine of not more than \$500 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.-]~~”

SECTION 60. Section 14-3-5-99 R.O.A. 1994 is amended to read:

“§ 14-3-5-99 PENALTY.

Any person violating any of the provisions of this Housing Code or failing or neglecting to comply with any orders issued pursuant to any section thereof shall be [~~deemed guilty of a misdemeanor and such persons shall be guilty of a separate offense-~~] [+subject to civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+] for each and every day or portion thereof during which any such violation is continued or permitted. [~~Upon conviction of any such violations such person shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances.-]~~”

SECTION 61. Section 14-4-99 R.O.A. 1994 is amended to read:

“§ 14-4-99 PENALTY.

Any person who violates any provision of this article is subject to [~~the general penalty provisions of this code set forth in § 1-1-99-~~] [+civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 62. Section 14-5-1-99 R.O.A. 1994 is amended to read:

“§ 14-5-1-99 PENALTY.

Any person who violates any provision of §§ 14-5-1-1 et seq. shall be subject

to ~~[-the penalty provisions set forth in § 1-1-99 of this code of ordinances-]~~ [+civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day of violation is considered a separate offense.”

SECTION 63. Section 14-5-2-99 R.O.A. 1994 is amended to read:

“§ 14-5-2-99 PENALTY.

A person who violates any provisions of §§ 14-5-2-1 et seq. shall be subject to ~~[-the penalty provisions set forth in § 1-1-99 of this code of ordinances-]~~ [+civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day of violation is considered a separate offense.”

SECTION 64. Section 14-6-99 R.O.A. is amended to read:

“§ 14-6-99 PENALTY.

Any person who violates any provision of this article is subject to ~~[-the penalty provisions of this code set forth in § 1-1-99-]~~ [+civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 65. Section 14-12-99 R.O.A. 1994 is amended to read:

§ 14-12-99 PENALTY.

Any person who violates any of the provisions of this article shall be ~~[-deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances-]~~ [+subject to civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day this article is violated shall be considered a separate offense.”

SECTION 66. Section 14-14-9-99 R.O.A. 1994 is amended to read:

“§ 14-14-9-99 PENALTY.

Any person who violates this article shall ~~[-, upon conviction, be punished by a fine of not more than \$500 or \$100 for each lot in violation of § 14-14-9-2 of this article whichever is more, or by imprisonment for not more than 90 days, or by both such fine and imprisonment-]~~ [+be subject to civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. This article may be enforced by the city through appropriate legal process.

SECTION 67. Section 14-15-99 R.O.A. 1994 is amended to read:

“§ 14-15-99 PENALTY.

Any person who violates any provision of this article is subject to [~~the general penalty provisions of this code set forth in § 1-1-99~~] [+civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+].”

SECTION 68. Section 14-16-4-99 R.O.A. 1994 is amended to read:

“§ 14-16-4-99 PENALTY.

Any person who violates any provision of this Zoning Code shall be subject to [~~the penalty provisions set forth in § 1-1-99 of this code of ordinances~~] [+civil fines set forth in § 1-1-99 or the alternative remedies stated in § 1-1-97(H)+]. Each day of violation is considered a separate offense.”

SECTION 69. Section 14-19-1-99 R.O.A. 1994 is amended to read:

“§ 14-19-1-99 PENALTY.

The city shall have the power to sue in law or equity for relief in civil court to enforce §§ 14-19-1-1 et seq. including, but not limited to, injunctive relief to enjoin and restrain any person from violating the provisions of this article and to recover such damages as may be incurred by the implementation of specific corrective actions. Knowingly furnishing false information to the city on any matter relating to the administration of §§ 14-19-1-1 et seq. shall constitute an actionable violation. The impact fees administrator may revoke or withhold the issuance of any building permit or other development permits if the provisions of §§ 14-19-1-1 et seq. have been violated by the owner or his/her assigns. Subject to applicable law, the city shall have the right to inspect the lands affected by §§ 14-19-1-1 et seq. and shall have the right to issue cease and desist orders, stop work orders and other appropriate citations for violations [+or notices of violation for civil violations pursuant to the provisions set forth in § 1-1-97+].”

SECTION 70. Section 14-19-2-99 R.O.A. 1994 is amended to read:

“§ 14-19-2-99 PENALTY.

The city shall have the power to sue in law or equity for relief in civil court to

enforce §§ 14-19-2-1 et seq. including, but not limited to, injunctive relief to enjoin and restrain any person from violating the provisions of §§ 14-19-2-1 et seq. and to recover such damages as may be incurred by the implementation of specific corrective actions. Knowingly furnishing false information to the city on any matter relating to the administration of §§ 14-19-2-1 et seq. shall constitute an actionable violation. The impact fees administrator may revoke or withhold the issuance of any building permit or other development permits if the provisions of §§ 14-19-2-1 et seq. have been violated by the owner or his/her assigns. Subject to applicable law, the city shall have the right to inspect the lands affected by §§ 14-19-2-1 et seq. and shall have the right to issue cease and desist orders, stop work orders and other appropriate citations for violations [+or notices of violation for civil violations pursuant to the provisions set forth in § 1-1-97+].”

SECTION 71. Section 14-19-3-99 R.O.A. 1994 is amended to read:

“§ 14-19-3-99 PENALTY.

The city shall have the power to sue in law or equity for relief in civil court to enforce §§ 14-19-3-1 et seq. including, but not limited to, injunctive relief to enjoin and restrain any person from violating the provisions of §§ 14-19-3-1 et seq. and to recover such damages as may be incurred by the implementation of specific corrective actions. Knowingly furnishing false information to the city on any matter relating to the administration of §§ 14-19-3-1 et seq. shall constitute an actionable violation. The impact fees administrator may revoke or withhold the issuance of any building permit or other development permits if the provisions of §§ 14-19-3-1 et seq. have been violated by the owner or his/her assigns. Subject to applicable law, the city shall have the right to inspect the lands affected by §§ 14-19-3-1 et seq. and shall have the right to issue cease and desist orders, stop work orders and other appropriate citations for violations [+or notices of violation for civil violations pursuant to the provisions set forth in § 1-1-97+].”

SECTION 72. Section 14-19-4-99 R.O.A. 1994 is amended to read:

“§ 14-19-4-99 PENALTY.

The city shall have the power to sue in law or equity fr relief in civil court to enforce §§ 14-19-4-1 et seq. including, but not limited to, injunctive relief to enjoin and restrain any person from violating the provisions of §§ 14-19-4-1 et seq. and to recover such damages as may be incurred by the implementation of specific corrective actions. Knowingly furnishing false information to the city on any matter relating to the administration of §§ 14-19-4-1 et seq. shall constitute an actionable violation. The impact fees administrator may revoke or withhold the issuance of any building permit or other development permits if the provisions of §§ 14-19-4-1 et seq. have been violated by the owner or his/her assigns. Subject to applicable law, the city shall have the right to inspect the lands affected by §§ 14-19-4-1 et seq. and shall have the right to issue cease and desist orders, stop work orders and other appropriate citations for violations [+or notices of violation for civil violations pursuant to the provisions set forth in § 1-1-97+].”

SECTION 73. SEVERABILITY CLAUSE.

If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid. Without limitation on the foregoing, this Ordinance is not intended to limit the remedies available to municipalities under New Mexico law. With regard to this entire code of ordinances, if a civil remedy is unavailable for any reason, the City may avail itself of all other remedies available at law including, without limitation, equitable relief, nuisance abatement and petty misdemeanor prosecution under ROA § 1-1-98.

SECTION 74. COMPILATION.

This ordinance shall be incorporated in and made part of the Revised

Ordinances of Albuquerque, New Mexico, 1994.

SECTION 75. EFFECTIVE DATE.

This ordinance shall take effect five days after publication by title and general summary.

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